

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-cv-00301-RJC
(3:12-cr-00061-RJC-1)**

RONNIE DAKOTA COVINGTON,)
)
 Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
)
 Respondent.)

)

ORDER

THIS MATTER is before the Court on Petitioner’s “Motion to Compel/Motion to Show Cause,” which the Court construes as a Section 2255 Motion to Vacate, Set Aside, or Correct Sentence. [Doc. 8]. For the following reasons, the Court finds that this is an unauthorized, successive petition, and the Court, therefore, dismisses the Motion to Vacate.

On July 13, 2015, Petitioner filed a pro se Section 2255 Motion to Vacate in this matter. [Doc. 1]. After ordering the Government to respond, the Court dismissed the Petitioner’s motion on the merits. [Doc. 6]. Then, well over three years later, on March 30, 2019, Petitioner filed the instant motion in this case. Petitioner again asks the Court to vacate, set aside or correct his sentence. [Doc. 8 at 1]. Several times Petitioner references having filed certain documents in this matter in December 2018 and January 2019. [Id.] On review of the docket in this matter, no such documents were filed. In reviewing the docket in the related criminal proceedings, the Court sees that the documents were actually captioned for and filed under that case. [Criminal Case No. 3:12-cr-00061-RJC-1 (“CR”), CR Docs. 59, 60]. The instant motion was also filed in the criminal case. [CR Doc. 61].

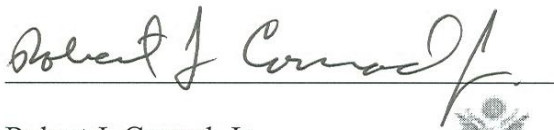
On June 26, 2019, after the Fourth Circuit denied Petitioner's motion under 28 U.S.C. § 22441 for an order authorizing the district court to consider a second or successive application for relief under § 2255 [CR Doc. 62], the Court dismissed Petitioner's successive motion to reduce his sentence that had been filed in Petitioner's criminal proceedings. [CR Doc. 63].

As such, for the same reasons as the Court dismissed Petitioner's successive motion to reduce sentence in the related criminal matter, the Court will dismiss Petitioner's Section 2255 Motion to Vacate for lack of jurisdiction.

IT IS, THEREFORE, ORDERED that

1. Petitioner's Motion to Vacate [Doc. 8] is **DISMISSED** as a successive petition.
2. **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 338 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

Signed: August 6, 2019


Robert J. Conrad, Jr.
United States District Judge

